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December 10, 1985

RECORDATION NO. 13603-10 A

DEC 13 1985 -10 05 AM

VIA FEDERAL EXPRESS

INTERSTATE COMMERCE COMMISSION

Mr. James Bayne
Acting Secretary
Interstate Commerce Commission
12th Street and Constitution Ave., N.W.
Room 2303
Washington, D. C. 20423

Re: Agreement and Assignment of Rights Under Conditional
Sale Agreement between Continental Assurance Company
and Missouri-Kansas-Texas Railroad Company, dated
October 23, 1985; assigned to Texas Commerce Bank
National Association

Dear Mr. Bayne:

Enclosed please find an originally executed and notarized
Agreement and Assignment of Rights Under Conditional Sale
Agreement ("Assignment") (along with a duplicate original of the
same) in connection with the Conditional Sale Agreement between
Continental Assurance Company and Missouri-Kansas-Texas Railroad
Company, which was filed with the Interstate Commerce Commission
("ICC") on March 22, 1982 under Recordation No. 13603.

Please arrange to have this Assignment filed in your records
before recording any subsequent amendments which I have sent to
you of even date herewith.

I also enclose a check in the amount of \$10.00, which covers
your recordation fee. Please forward the Certificate of
Recordation and an original Assignment stamped with the
appropriate filing information to:

Cathleen S. Cox
Liddell, Sapp, Zivley and LaBoon
3500 Texas Commerce Tower
Houston, Texas 77002-3095

Interstate Commerce Commission
December 10, 1985
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Should you have any questions as to this matter, please feel free to call me collect at (713) 226-1447.

Sincerely yours,

A handwritten signature in cursive script, reading "Cathleen S. Cox".

Cathleen S. Cox
Paralegal

CSC:lel
Enclosures - a/s

CSC:MKT-1Assgn

RECORDATION NO. 13603-A
Filed 1435

DEC 13 1985 - 10 05 AM

AGREEMENT AND ASSIGNMENT OF RIGHTS
UNDER CONDITIONAL SALE AGREEMENT INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT AND ASSIGNMENT OF RIGHTS UNDER CONDITIONAL SALE AGREEMENT is dated as of October 23, 1985, and is entered into by and between CONTINENTAL ASSURANCE COMPANY, an Illinois corporation (hereinafter called the "Assignor"), TEXAS COMMERCE BANK NATIONAL ASSOCIATION, a national banking association (hereinafter called the "Assignee") and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Delaware corporation (hereinafter called the "Company").

WHEREAS, Assignor and the Company have entered into a Conditional Sale Agreement (the "Conditional Sale Agreement") dated as of February 28, 1982, covering the sale and delivery, subject to the conditions set forth therein, by the Assignor and the purchase by the Company of the following described equipment and rolling stock (collectively, the "Equipment"), including:

Twelve (12) 3,000 hp model GP40 general purpose locomotives (the "Locomotives") bearing the Company's Road Numbers 170-181, both inclusive;

the Conditional Sale Agreement having been filed for recordation in the Office of the United States Interstate Commerce Commission on March 22, 1982 and recorded under Recordation No. 13603;

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration paid by the Assignee to the Assignor, the receipt of which is hereby acknowledged, as well as the mutual covenants contained herein, the Assignor hereby TRANSFERS, ASSIGNS, ENDORSES, GRANTS, CONVEYS AND DELIVERS to the Assignee, its successors and assigns, all of the following, to wit:

- (a) All of the rights, titles, benefits, privileges, liens, security interests and assignments owned, held, or accrued to, or to be owned, held or accrued to, and for the benefit of, the Assignor, pursuant to or under the Conditional Sale Agreement, including, without limitation, the right to receive all payments of all sums owing or to become owing to the Assignor by the Company under the Conditional Sale Agreement; and

- (b) All other liens, security interests, lien priority agreements, guaranties, collateral assignments, covenants, agreements, rights, benefits and privileges (including, but not limited to those accruing under any and all security agreements, collateral assignments, mechanics' materialmen's and suppliers' lien waivers and affidavits, subordination or parity agreements, casualty insurance policies and binders, payment bonds and performance bonds) in any wise accruing or to accrue to the benefit of Assignor, in any wise in respect of the Conditional Sale Agreement and any indebtedness now or hereafter evidenced thereby.

Assignor agrees, warrants and represents:

- (1) The Assignor is the legal and equitable owner of has full power and authority to transfer and assign the rights, benefits, privileges, security interests, assignments and security described in (a) and (b), above (the "Interests"), subject to no pledge, assignment, security interest or encumbrance whatsoever.
- (2) The Assignor has not executed any agreement subordinating or impairing the first priority status of any title, lien or security interest securing the obligations of the Company pursuant to and under the Conditional Sale Agreement.
- (3) There remains unpaid under the Conditional Sale Agreement on the effective date hereof the principal sum of ~~\$1,214,613.12~~, none of which has been prepaid. *1,223,319.68* *WFO* *12*
- (4) Accrued interest on the unpaid principal sums due under the Conditional Sale Agreement has been paid to, but not through or after, October 23, 1985.
- (5) There are no written agreements amending the Conditional Sale Agreement or any security instrument securing the obligations at the Company under Conditional Sale Agreement and no written agreements diminishing or impairing the liability of (a) the Company to timely pay the unpaid principal balance due under the Conditional Sale Agreement, together with accrued and unpaid interest thereon, in accordance with the face, tenor, effect and reading of the Conditional Sale Agreement or (b) any endorser or guarantor thereof or any surety therefor to perform his or its obligation in strict accordance with the tenor and reading of the writing creating or evidencing the obligation of such endorser, guarantor or surety.
- (6) The Assignor has no knowledge of any default under any of the terms, conditions and provisions of the Conditional Sale Agreement.
- (7) The Assignor will execute or cause to be executed such other documents as Assignee shall from time to time reasonably request to evidence or protect

or perfect the Assignee's or the transfer to the Assignees of Assignor's Interests.

The Company hereby agrees, warrants and represents to the Assignee as follows:

- (1) The Company warrants and represents to the Assignee that the representations and warranties contained in the Conditional Sale Agreement are true and correct in all material respects on and as of the date hereof as though made on and as of such date. The Company hereby certifies that no event has occurred and is continuing which constitutes and event of default under the Sale Agreement, or which upon the giving of notice or the lapse of time or both would constitute such an event of default.
- (2) The Company hereby consents and agrees to, and acknowledges the execution of this Agreement and Assignment of Rights Under Conditional Sale Agreement and hereby agrees that all payments due under the Conditional Sale Agreement shall hereafter be made by the Company to the Assignee at the following address:

Texas Commerce Bank
National Association
712 Main Street
Houston, Texas 77002
Attention: Metroplex Division Manager.
- (3) The Company hereby agrees and confirms to the Assignee that by executing this Assignment, the Company shall be deemed to have received written notice of this Assignment and a copy of this Assignment from the Assignee as required by Article 14 of the Conditional Sale Agreement and, further, shall be deemed to have received written request by the Assignee to change the stencil markings on each side of the Equipment and hereby agrees to make such change, all as provided for in such Article 14 of the Conditional Sale Agreement.
- (4) The Company hereby agrees, warrants and represents that any and all obligations of the Assignor (if any), however arising, under the Conditional Sale Agreement shall be and remain enforceable by the Company against and only against the Assignor, its successors and assigns (if at all), and that the Company shall have no right to set off any sums owed or to become owing by the Assignor to the Company, against sums owed or to become owing by the Company under the Conditional Sale Agreement.
- (5) The Company hereby ratifies, confirms and agrees that the Equipment is being sold under the Conditional Sale Agreement on an "as is-where is" basis without warranty or representation, either express or implied, as to (a) the fitness or merchantability of the Equipment, or (b) any other matter whatsoever (except warranty of title), as provided in Article 8 of the Conditional Sale Agreement.

- (6) All obligations of the Assignor (if any) under the Conditional Sale Agreement have been timely performed, and the Assignor is not in default thereunder.

The Assignor, the Assignee and the Company have caused these presents to be executed by its undersigned officers, duly authorized by their respective Boards of Directors, effective as of the date first written above.

CONTINENTAL ASSURANCE COMPANY,
an Illinois corporation

ATTEST:

Wayne R. Gulgren
Name: Wayne R. Gulgren
Title: Asst. Secretary

By: [Signature]
Name: Richard W. Dubberke
Title: Vice President

TEXAS COMMERCE BANK NATIONAL
ASSOCIATION, a national
banking association

By: [Signature]
Name: R. A. S. [Signature]
Title: [Signature]

MISSOURI-KANSAS-TEXAS RAILROAD
COMPANY, a Delaware
corporation

ATTEST:

J. T. Bass
Name: J. T. Bass
Title: SECRETARY

By: [Signature]
Name: KARL ZIEBARTH
Title: Executive Vice President-Financial

THE STATE OF Illinois §
COUNTY OF COOK §

BEFORE ME, the undersigned authority, on this day personally appeared Richard W. Dubberke, Vice President of Continental Assurance Company, an Illinois corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and seal of office this 23rd day of October, 1985.

(SEAL)

Lydia DeGras
Notary Public in and for
the State of Illinois
Printed Name: LYDIA DEGRAS
My Commission Expires: June 25, 1987

THE STATE OF TEXAS §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared R.A. Salcehi, Vice President of Texas Commerce Bank National Association, a national banking association, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said association.

Given under my hand and seal of office this 8 day of November, 1985.

(SEAL)

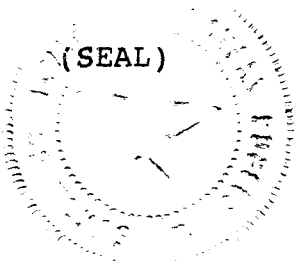
Janette Sexton
Notary Public in and for
the State of TEXAS
Printed Name: Janette Sexton
My Commission Expires: 11-16-88

JANETTE SEXTON
Notary Public, State of Texas
My Commission Expires 11-16-88

THE STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Karl R. Ziebarth, Executive Vice President-Financial of Missouri-Kansas-Texas Railroad Company, a Delaware corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and seal of office this 18th day of October, 1985.



Lolita M. McKnight
Notary Public in and for
the State of TEXAS
Printed Name: Lolita M. McKnight
My Commission Expires: 1-24-89